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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,124	01/17/2006	Antonius Johannes Maria Bouman	BOUMAN1	8966
1444 7590 04/17/2007 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			EXAMINER GRAVINI, STEPHEN MICHAEL	
			ART UNIT 3749	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/17/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/539,124

Applicant(s)

BOUMAN, ANTONIUS JOHANNES
MARIA

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on March 5, 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1-6, 8-9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Meade (US 4,657,767). The claims are reasonably and broadly construed, in light of the accompanying specification to be anticipated by Meade as comprising a vertical drying chamber **18** which comprises:

- a material feed **42** for supplying material which is to be spray-dried,
- an atomization means **24** for atomizing the material which is to be spray-dried,
- a drying-gas feed **32b** for supplying drying gas,
- a drying-gas discharge **35** for discharging drying gas,
- a material discharge **49** for discharging spray-dried material,
- filter means **61** for separating entrained fine particle out of discharged drying gas, and
- fine-particle removal means **53** for removing fine particles which have been deposited on the filter means from the filter means, wherein the spray-drying device also comprises fine-particle collection means for collecting the fine particles which have been removed from the filter means by the fine particle removal means, the collected fine particles and spray dried material being separate products which are separately discharged as discussed in column 3 line 25 through column 8 line 52.

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Meade is also considered to disclose the claimed separate drying chamber compartment as zone C, direct communication drying chamber compartment as shown in figure 5, at least two openings as shown in figure 6, two groups of openings at different height also shown in figure 5, bag filter or filter hose as shown in figure 4, fine particle treatment means as discussed in column 4 lines 20-52, fine particle conveyor means as discussed in column 5 line 59 through column 6 line 48, and discharge opening leading to the drying chamber as shown in figure 5.

Claim Rejections - 35 USC § 103

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meade in view of Rinfret et al. (US 3,228,838). Meade is considered to disclose the claimed invention, except for the claimed flow reversal. Rinfret, another spray-drying device, is considered to disclose flow reversal at column 9 line 57 through column 10 line 4. It would have been obvious to one skilled in the art to combine the teachings of Meade with the flow reversal, considered disclosed in Rinfret, for the purpose of efficient fine particle removal in a spraying device.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meade in view of Rey et al. (US 4,883,507). Meade is considered to disclose the claimed invention, except for the claimed perforated plate. Rey, another spray-drying device, is considered to disclose a perforated plate at column 12 lines 4-31. It would have been obvious to one skilled in the art to combine the teachings of Meade with the perforated plate, considered disclosed in Rey, for the purpose of more efficient spraying device through flow control.

Double Patenting

Claims 1-11 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 17-32 of copending Application No. 10/512,552. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one skilled in the art to claim the same invention as found in the copending application but without an atomization means since both claimed structures function in the same way using the same means for the same result regardless of an atomization means.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

Applicant's arguments filed March 5, 2007 have been fully considered but they are not persuasive.

anticipation

Current Office practice guides examination such that claims are reasonably and broadly construed, in light of the specification. In this application, applicant argues that claims should be more narrowly construed than permitted by current Office practice. Specifically the claimed vertical drying chamber feature is construed to have a vertical component such that teachings of primary reference Meade expressly disclose a vertical drying chamber. Applicant recognizes that column 3 lines 45-51 of Meade have an "upper part" and "gravitating downwardly" into a "lower portion." These disclosed

expressly anticipate the claimed vertical drying chamber because an upper and lower part with downward motion defines a vertical chamber.

Although applicant argues that fine particle collection means for separate collection of fine particles from the spray dried material distinguishes the claimed invention over the prior art, that feature is not claimed. The claimed "fine-particle collection means for collecting the fine particles which have been removed from the filter means by the fine particle removal means, the collected fine particles and spray dried material being separate products which are separately discharged" is reasonably and broadly construed such that the separate collection feature argued is not imported into the claims. The teachings of Mead anticipate the claimed feature and arguments not claimed can not overcome the anticipatory rejection unless the claims are structurally and functionally distinct from the prior art. Each of the features claimed are anticipated by Meade, as rejected above. Furthermore, applicant's attempt to import Merriam Webster compartment dictionary definitions further strengthens the rejection because a compartment is not independently claimed and the specification discussions are consistent with the ordinary claim means found in Meade. Finally, although Meade discloses co-mingling, it should be recognized that filter beds, fluidized beds, and fragment removal also disclosed, further shows that the claimed particles are separated and collected, as claimed. It is believed the anticipatory rejection is proper and maintained.

obviousness

The asserted patentability of the obviated rejected claims does not overcome the prior art rejection such that the obviousness rejection is believed proper and maintained.

doubling patenting

The assertion that the copending application is unrelated does not overcome the obvious type double patenting rejection such that the rejection is believed proper and maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571 272 4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMG
April 15, 2007

Stephen D. Davis